Federal Communications Commission
Washington, D.C. 20554

DA 04-2081

July 09, 2004

Ms. Jennifer Warren
Senior Director, Regulatory Affairs
Lockheed Martin Corporation
1725 Jefferson Davis Highway
Arlington, VA 22202-412

Re: Lockheed Martin Corp., Application for Authority to Launch and Operate Geostationary Orbit Satellites in the Radionavigation Satellite Service at the 79° W.L. (File Nos. SAT-LOA-19990427-00045, SAT-AMD-20030730-00149, Call Sign: S2370), 71° E.L. (File Nos. SAT-LOA-19990427-00049, SAT-AMD-20030730-00152, Call Sign: S2374), and 131.8° E.L. orbital locations (File Nos. SAT-LOA-19990427-00050, SAT-AMD-20030730-00153, Call Sign: S2375).

Dear Ms. Warren:

On April 27, 1999, Lockheed Martin Corporation ("Lockheed") filed applications to launch and operate satellites at the 79° W.L., 71° E.L. and 131.8° E.L. orbital locations, as part of its Regional Positioning System ("RPS"), a radio-navigation satellite service ("RNSS") network. On July 30, 2003, Lockheed amended those applications, to modify the requested radio frequencies, clarify its Tracking, Telemetry and Command ("TT&C") functions, delete one orbital location and modify another, and provide additional or revised technical information. We are unable however, to act on the applications, as amended, and request that Lockheed amend its applications by July 23, 2004, to address the issues detailed below. For the reasons set forth below, we also dismiss, in part, portions of the amended applications, in which Lockheed requested additional frequencies, because those requests violated a space station application freeze.

Under Section 25.114(c)(5) of the Commission's rules satellite applications are required to include center frequencies of transponders for the proposed satellites.[1] Lockheed proposes to use a portion of the 3600-3700 MHz and 6625-6725 MHz bands, allocated to the Fixed Satellite Service ("FSS") for TT&C functions for the proposed satellites.[2] However, in both the original April 1999 applications and the July 2003 amendments, Lockheed does not specify the center frequencies it plans to use for its proposed TT&C functions. Therefore, Lockheed should further amend its applications to provide the specific center frequencies that it is requesting.

Additionally, Section 25.202(g) of the Commission's rules requires that "tracking, telemetry and telecommand functions for U.S. domestic satellites be conducted at either or both edges of the

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1 47 C.F.R. §25.114(c)(5).

2 *See* July 2003 amendments at 34, Revised Table 4.1-1: Requested Frequency Bands.

allocated bands."[3] The Commission has interpreted this rule to mean that satellite operators are limited to operating TT&C links in the same frequency bands as their general satellite operations.[4] Lockheed's proposed requests to use the FSS allocated 3600-3700 MHz bands for its TT&C downlink functions do not conform to this rule. Therefore, Lockheed should amend its applications to conduct these functions within RNSS or space operations downlink bands. In the alternative, Lockheed may request a waiver of Section 25.202(g), providing justification to perform these functions within the 3600-3700 MHz downlink band. Such a waiver request will be evaluated under the applicable standard.[5]

Further. we are also dismissing certain portions of the applications, as amended on July 30, 2003. On April 23, 2003, the Commission adopted the Space Station Reform *First Report and Order and Further Notice of Proposed Rulemaking*, and as part of that action adopted a freeze on applications for authority to operate on frequencies not previously authorized for operation.[6] This freeze began on April 23, 2003, and remained in effect till August, 27, 2003.[7] An examination of the July 2003 amendments shows that Lockheed is now seeking authority for new frequencies in the 5010-5030 MHz bands.[8]

Those frequencies were not requested in the original April 1999 applications. In those applications, Lockheed noted that the 5 GHz band[9] was not allocated for RNSS, and stated that its "RPS plan and design takes into consideration the possible future addition of several new navigation downlinks" including the 5 GHz band.[10] However, these applications did not include a specific or concrete proposal regarding use of future allocations in the 5 GHz band. Thus, Lockheed's statements in the original April 1999 applications did not state a sufficient request to permit Commission action concerning the 5010-5030 MHz band, but merely indicated a possible intent to make such a request at a future date. Therefore, we find that Lockheed's July 2003 amendments, for the first time requested

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3 47 C.F.R. §25.202(g).

4 *See, e.g.,* Amendment of the Commission's Rules with Regard to the 3650 – 3700 MHz Government Transfer Band, ET Docket No. 98-237, *First Report and Order and Second Notice of Proposed Rulemaking*, FCC 00-363, 15 FCC Rcd 20488, 20538-39, ¶ 129.

5 *See* Section 1.3 of the Commission's rules, 47 C.F.R. §1.3. *See also Astrolink Int'l LLC, Application for Authority to Construct, Launch and Operate a Ka-band Satellite System in the Fixed-Satellite Service,* 16 FCC Rcd 20124, 20129-30 (Int'l Bur., 2001).

6 Amendment of the Commission's Space Station Licensing Rules and Policies, IB Docket No. 02-34, *First Report and Order and Further Notice of Proposed Rulemaking,* FCC 03-102, 18 FCC Rcd 10760 (2003), *erratum*, DA 03-2087, 18 FCC Rcd 12674 (Sat. Div., Int'l Bur., 2003); *see also* Public Notice, DA 03-1284, 18 FCC Rcd 7903 (Int'l Bur., April 25, 2003) (Commission adopts a freeze on new satellite licensing applications effective April 23, 2003); Public Notice, DA 03-2737 (Sat. Div., Int'l Bur., August 27, 2003) (Commission lifts freeze effective August 27, 2003).

7 *Id.*

8 *See* July 2003 amendments at 2-3.

9 *See* April 1999 applications at 35, Table 4.1-2: Possible Future Frequency Bands, including the 4999.5-5040.5 MHz frequency band.

10 *Id.* at 35.

additional spectrum in the 5010-5030 MHz frequency band thereby, violating the freeze. Consequently, we dismiss that portion of Lockheed's July 2003 amended applications, without prejudice to refiling.[11]

Additionally, in comparing Table 4.1-1 of Lockheed's original applications filed in April 1999 and Table 4.1-1 in the July 2003 amendments, we find that Lockheed requests an additional 41 MHz of spectrum that was not included in its original applications. Specifically, Lockheed requests the use of the 6629.02-6649.52 MHz and 6680-6700.67 MHz bands for an augmentation data uplink.[12] Lockheed's request for these additional frequencies in its July 2003 amendments also violated the freeze. Therefore, we also dismiss that portion of Lockheed's July 2003 amended applications, without prejudice to refiling.[13]

Thus, for the above mentioned reasons we dismiss, in part, portions of Lockheed's amended applications, File Nos. SAT-AMD-20030730-00149, SAT-AMD-20030730-00152, and SAT-AMD-20030730-00153, without prejudice to refiling. Specifically, we dismiss Lockheed's requests for additional frequencies in the 5010-5030 MHz band, and Lockheed's requests to use the 6629.02-6649.52 MHz and 6680-6700.67 MHz bands for augmentation data. In addition, Lockheed is directed to file amendments to its applications addressing the issues discussed above by July 23, 2004. If Lockheed fails to file the requested amendments by July 23, 2004, Lockheed's applications, File Nos. SAT-LOA-19990427-00045, SAT-LOA-19990427-00049, SAT-LOA-19990427-00050, as amended by File Nos. SAT-AMD-20030730-00149, SAT-AMD-20030730-00152, SAT-AMD-20030730-00153, respectively, may be dismissed pursuant to sections 25.112(c) and 25.152(b) of the Commission's rules.

Sincerely,

Thomas S. Tycz
Chief
Satellite Division

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[11] When submitting the further amended application, we remind Lockheed that Section 25.114(c)(8) of the Commission's rules, 47 C.F.R. §25.114(c)(8) requires that applications for space station authorizations include an overall link performance analysis.

[12] *Supra* note 2.

[13] *Supra* note 11.